

Hecker Fink LLP

350 FIFTH AVENUE | 63RD FLOOR
NEW YORK, NEW YORK 10118

1050 K STREET NW | SUITE 1040
WASHINGTON, DC 20001

TEL (212) 763-0883 | FAX (212) 564-0883

WWW.HECKERFINK.COM

DIRECT DIAL 929.294.2540

DIRECT EMAIL shecker@heckerfink.com

October 22, 2024

BY CM/ECF

The Honorable Lewis J. Liman
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: United States v. Neil Phillips, 22 Cr. 138 (LJL)

Dear Judge Liman:

The parties write to jointly request, pursuant to Federal Rule of Appellate Procedure 10(e)(2)(A) and (B), that the Court supplement the docket for the record on appeal to include the draft and revised jury instructions provided to the parties during trial.

FRAP 10(e) provides that, “[i]f anything material to either party is omitted from . . . the record by error or accident, the omission . . . may be corrected and a supplemental record may be certified and forwarded: (A) on stipulation of the parties; (B) by the district court before or after the record has been forwarded; or (C) by the court of appeals.” Fed. R. App. P. 10(e)(2). The parties have stipulated to and agreed that the Court should supplement the docket with (1) the Draft Jury Charge dated October 16, 2023 (Exhibit A); (2) the revised, clean Draft Jury Charge dated October 21, 2023 (Exhibit B); and (3) the revised, redlined Draft Jury Charge dated October 21, 2023 (Exhibit C).

The draft and revised instructions are material to Defendant-Appellant’s appeal. The District Court provided those instructions to the parties by email but did not include them on the record as court exhibits. And those instructions are material, in part, because Defendant-Appellant’s appeal will challenge the final jury instructions, and the requested material provides context necessary to fully consider that issue.

Accordingly, the parties stipulate to and jointly move this Court to add the documents marked as Exhibits A, B, and C to the record pursuant to FRAP 10(e). The parties’ stipulation is appended to this letter motion as Exhibit D.

We thank the Court for its consideration of this request.

Hecker Fink LLP

2

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Sean Hecker", is positioned above the printed name.

Sean Hecker